



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 22, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0152

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 – Using Force 1. Use of Force: When Authorized	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Named Employee #1 (NE#1) transported Community Member #1 (CM#1)—an arrestee—to and from the King County Jail (KCJ). CM#1 alleged that NE#1 pointed a gun at her during transport.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On May 10, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received a complaint via Blue Team and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident reports, in-car video (ICV), body-worn video (BWV), and KCJ security camera footage.

The Complainant—a sergeant—submitted an OPA complaint on CM#1's behalf. The Complainant wrote that officers developed probable cause to arrest CM#1 for felony assault, and NE#1 transported CM#1 to KCJ. While at KCJ, CM#1 reported that she sat in the backseat of NE#1's patrol vehicle while NE#1 went to the back of the vehicle, placed three guns on his person, and pointed a gun at her back. CM#1 believed she was going to get shot. CM#1 reported facing forward, looking at the rearview mirror, and seeing NE#1 struggle with a gun. CM#1 believed NE#1 was upset.

The CAD call and incident reports covered the details of CM#1's arrest. On March 25, 2023, at 4:50 PM, CAD call remarks noted, "KNOWN FEMALE THREW CAN OF FOOD AT [REPORTING PARTY] 3 MIN AGO, HEAD INJURY, PARTIES SEPARATED, SCREENING FIRE, NO [WEAPONS]." The call was coded as an assault. Witness Officer #1 (WO#1)



documented in an incident report that he was dispatched to the assault incident. WO#1 wrote that, upon his arrival, Community Member #2 (CM#2)—the victim—bled from her forehead and reported that CM#1 threw a can of food at her, accusing CM#2 of touching her belongings. WO#1 wrote that officers arrested CM#1 for assault in the second degree. NE#1 documented in an incident report that, after CM#1's arrest, he transported CM#1 to the East Precinct, KCJ, and Harborview Medical Center.

NE#1's ICV captured the following at KCJ. While NE#1 secured CM#1 in the backseat of his patrol vehicle, CM#1 said, "I don't trust you." NE#1 closed the door, and CM#1 began talking to herself. CM#1, facing forward, said, "See, I don't want him in the back car doing anything like that with his gun, and that's scary." CM#1 also said, "See, look it, look it, look at his gun pointed towards me. And he's struggling with it, and he's got a gun inside, all the way inside his shirt. That gun was just pointed at me. And he really thinks he can call me a liar." CM#1 continued to talk to herself. NE#1 could be heard entering his patrol vehicle. CM#1 asked, "Do you have to do what you just did directly behind me?"

NE#1's BWV captured NE#1 placing items and his gun on his person at KCJ. BWV did not show NE#1 point his gun at CM#1 at any time. KCJ's security camera fully captured the rear of NE#1's patrol vehicle. The footage showed NE#1 placing items, including firearms, on his person. NE#1 holstered his gun and appeared to have secured a backup weapon to his body. The footage did not show NE#1 pointing his gun at CM#1.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.200 – Using Force 1. Use of Force: When Authorized

CM#1 alleged that NE#1 pointed his gun at her when it was not reasonable, necessary, or proportional to do so.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary, and proportional. Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." *Id.* Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." SPD Policy 8.050. Reasonableness must allow that officers are often forced to make "split-second decisions" under tense, dynamic circumstances. *Id.* The policy also lists several factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where "no reasonably effective alternative to the use of force appeared to exist" and "the amount of force used was reasonable to effect the lawful purpose intended." *Id.* Lastly, the force used must be proportional to the threat posed to the officer. *Id.* Pointing a firearm at a subject is a Type I use of force. SPD Policy 8.400-POL-1.

Here, objective evidence directly refuted CM#1's claim that NE#1 pointed his gun at her. NE#1's BWV and KCJ's security camera captured NE#1 securing items on his person at the back of his patrol vehicle. OPA did not see NE#1 point his gun at CM#1 at any time. The evidence shows NE#1 did not use Type I force.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**